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OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
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BILL ANALYSIS

BILL NUMBER: House Bill 6270 (as introduced)
TOPIC: Tax and Fee Exemption for Surplus Lines Carriers
SPONSOR: Representative Judy Emmons
COMMITTEE: House Insurance
Analysis Done: June 28, 2006

POSITION

The Office of Financial and Insurance Services (OFIS) opposes this legislation.

PROBLEM/BACKGROUND

Proponents of this legislation argue that the tax imposed on unauthorized insurers under section 451 of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.451, increases the cost. They believe that the tax should not be imposed if the product is otherwise unavailable in the authorized marketplace.

DESCRIPTION OF BILL

The bill amends section 451 of the Code to exempt payment of surplus lines taxes and fees on premiums collected by if the insurance is not offered by licensed/authorized insurers.

SUMMARY OF ARGUMENTS

Pro

The proponents argue that the tax increases the cost of the insurance, so it should be eliminated.

Con

Unauthorized insurers are not licensed to operate in Michigan, do not pay any fees for their regulation, do not contribute to any guaranty funds, and do not pay the single business tax (SBT) or any retaliatory tax. Michigan domestic and foreign insurers that are authorized pay for their regulation through assessments are monitored for financial soundness, are subject to guaranty fund assessments to protect Michigan consumers, and pay either SBT or retaliatory tax. The tax burden for Michigan domestic carriers is at least 1.1% with credits and up to 2.5% for foreign carriers under the retaliatory tax formula.

This bill would eliminate a tax paid by unauthorized carriers, creating a competitive advantage for unregulated insurance carriers. Additionally, this elimination would create a \$15 million exposure to the general fund. This possible \$15 million hole in general funds should be of particular interest to those involved in the current target negotiations.

Because OFIS does not currently monitor on a daily or monthly basis the status of any particular coverage in the authorized marketplace (whether it is "offered,"), the tax would have to be collected as it currently is, at the time of sale, and then an audit would have to be performed to determine if the tax were properly collected. It is not clear from the proposed legislation, as there is no mechanism for either a credit or refund, regarding the mechanics of how to administer and enforce the provisions within. OFIS annually determines whether a product is "generally unavailable in the authorized market," but not whether something is "offered" by unauthorized insurers.

OFIS would lose the ability to collect the .5% fee under this proposed legislation. While that would create a hole in revenue, OFIS is able to recoup this shortfall by increasing the assessment collected from the authorized insurers.

FISCAL/ECONOMIC IMPACT

OFIS has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Services:

Budgetary: OFIS would lose its current .5% administration fee under this legislation. However, any shortfall in our budget can be recovered under our assessment mechanism on the authorized carriers.

Revenue:

Comments:

(b) To the Department of Labor and Economic Growth: None known.

Budgetary:
Revenue:
Comments:

(c) To the State of Michigan:

Budgetary:
Revenue: As noted above, the potential general fund exposure
is \$15 million.
Comments:

(d) To Local Governments within this State: None known.

Comments:

OTHER STATE DEPARTMENTS

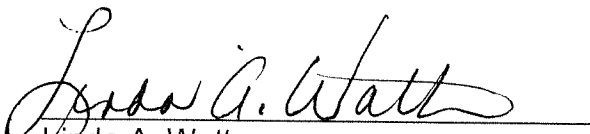
The Michigan Budget Office has expressed concern due to the potential \$15 million exposure of general fund money.

ANY OTHER PERTINENT INFORMATION

None known.

ADMINISTRATIVE RULES IMPACT

OFIS has general rulemaking authority under the Code.


Linda A. Watters
Commissioner

6-28-06
Date